

CLIENT NEWS BRIEF

California Adds “Nonbinary” Gender Option to Identification Documents, Impacting All Public Entities

On October 15, 2017, Governor Jerry Brown signed Senate Bill (SB) 179, known as the “Gender Recognition Act,” which adds a “nonbinary” gender option to state driver’s licenses, identification cards, and birth certificates. Most of this bill’s provisions are set to take effect on September 1, 2018, including a provision allowing an individual to petition a California court to recognize their gender as nonbinary, which would then allow them to subsequently request a new birth certificate reflecting their gender identity.

Public entities will need to address the nonbinary gender option now available to employees and students on official documents. Job application forms will likely require revision to allow the indication of nonbinary gender. Training may be necessary to inform employees about the new law and to re-instruct them about responding appropriately to new job applicants or existing employees who identify with a nonbinary gender, which could be included as part of a public entity’s sexual harassment training. SB 396, also passed in 2017, requires employers with 50 or more employees to conduct training on harassment based on gender identity, gender expression, and sexual orientation. Further, school employees will likely need guidance on how to address potential issues that may arise on campus regarding nonbinary persons.

SB 179 follows Assembly Bill (AB) 1266, made effective January 1, 2014, which allows students to participate in school programs and activities and use facilities consistent with their gender identity. While AB 1266 is often considered in relation to transgender students, the law itself refers to gender identity, which includes those identifying as nonbinary.

School districts, community college districts, and charter schools should update student forms to ensure the indication of nonbinary gender is available for the 2018-2019 school year. The California Department of Education, in its [guidance](#) on AB 1266, states, “when a school district receives documentation that a legal name or gender has been changed, the district must update the student’s official record accordingly.” This would apply to all official student records including a gender designation, including but not limited to enrollment and registrations forms, IEPs, 504 plans, report cards, and transcripts. Districts should also contact their electronic student information system providers to ensure electronic systems are updated accordingly in advance of the 2018-2019 school year.

If you have any questions about the implementation of SB 179, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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